

# UNITED STATES DISTRICT COURT

## Eastern District of New York

Steven McCune

- v -

County of Suffolk, et. al.

Presiding Judge: **Joanna Seybert, Senior U.S.D.J.**Case No(s): **14-cv-4431-JS-ST**Date: **2/21/2023**Start Time: **9:15 AM** Total Time: **30 mins.****MINUTE ENTRY FOR A CIVIL PROCEEDING****SEALED PROCEEDING: ☐ Yes ☒ No****I. APPEARANCES:**Plaintiff : **Frederick K. Brewington, Esq.**

Court Reporter:

FTR Time: **9:15 - 9:33, 9:52 - 10:04**Defendant : **Arlene S. Zwilling, Esq.**Courtroom Deputy: **Eric L. Russo****II. PROCEEDINGS HELD:**

- |   |  |  |   |
|---|--|--|---|
| <input checked="" type="checkbox"/> In-Person | <input type="checkbox"/> Bench Trial                 | <input type="checkbox"/> Jury Deliberations                  | <input type="checkbox"/> Preliminary Injunction Hearing         |
| <input type="checkbox"/> By Telephone         | <input type="checkbox"/> Contempt Hearing            | <input type="checkbox"/> Jury Selection ( <i>Voir Dire</i> ) | <input type="checkbox"/> Pre-Motion Conference                  |
|   | <input type="checkbox"/> Evidentiary Hearing         | <input type="checkbox"/> Jury Trial                          | <input checked="" type="checkbox"/> Status/Pre-Trial Conference |
|   | <input type="checkbox"/> Fairness/Settlement Hearing | <input type="checkbox"/> Motion Hearing                      | <input type="checkbox"/> Show Cause Hearing                     |
- ☐ Other Proceeding: \_\_\_\_\_

**III. PROCEEDINGS SUMMARY:**

- ☐ Preliminary Injunction Hearing held.
- ☐ The parties presented their oral arguments to the Court.
- ☐ Witness(es) were called for the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
- ☐ Exhibits were entered into evidence.
- ☐ The Court made the following ruling(s):
- |   |  |
|---|--|
| <input type="checkbox"/> Motion <u>granted</u> as to the:                                 | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Motion <u>denied</u> as to the:                                  | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Motion <u>granted, in part, and denied, in part</u> , as to the: | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Motion found <u>moot</u> as to the:                              | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Decision <u>reserved</u> as to the:                              | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
- ☐ The following briefing schedule was set as to \_\_\_\_\_:
- |  |        |
|--|--------|
| <input type="checkbox"/> _____ shall serve the <u>motion</u> and all supporting papers by:                         | _____. |
| <input type="checkbox"/> _____ shall serve the <u>opposition to the motion</u> and all supporting papers by:       | _____. |
| <input type="checkbox"/> _____ shall serve the <u>cross-motion</u> and all supporting papers by:                   | _____. |
| <input type="checkbox"/> _____ shall serve the <u>reply</u> and all supporting papers by:                          | _____. |
| <input type="checkbox"/> _____ shall serve the <u>opposition to the cross motion</u> and all supporting papers by: | _____. |
| <input type="checkbox"/> _____ shall serve the <u>reply to the cross motion</u> and all supporting papers by:      | _____. |
- ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before \_\_\_\_\_.
- ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on \_\_\_\_\_ (same date as the final reply date).
- ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.  
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order.
- ☐ See Section IV of this minute entry (page 5) for additional details and/or rulings.

- ☒ Pre-Motion/Status/Pre-Trial Conference held.
- ☒ The parties advised the Court of the status of the case.
- ☐ The parties presented their oral arguments to the Court regarding the proposed motion(s).
- ☐ The following briefing schedule was set as to \_\_\_\_\_:
- ☐ \_\_\_\_\_ shall serve the motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the opposition to the motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the cross-motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the reply and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the opposition to the cross motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the reply to the cross motion and all supporting papers by: \_\_\_\_\_.
- ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before \_\_\_\_\_.
- ☐ The Court deemed this case ready for trial (or was previously deemed ready for trial by the Magistrate Judge).
- ☐ The Court set the following pre-hearing/pre-trial submission schedule:
- ☐ Motions in Limine due by: \_\_\_\_\_.
- ☐ Oppositions to Motions in Limine due by: \_\_\_\_\_.
- ☐ Replies to Motions in Limine due by: \_\_\_\_\_.
- ☐ Proposed Voir Dire questions and case summary due by: \_\_\_\_\_.
- ☐ Proposed exhibits and witness list due by: \_\_\_\_\_.
- ☐ Requests to Charge and proposed verdict sheets due by: \_\_\_\_\_.
- ☐ \_\_\_\_\_: \_\_\_\_\_.
- ☐ The Court will enter a separate order outlining the pre-hearing/pre-trial submission schedule.
- ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on \_\_\_\_\_ (same date as the final reply date).
- ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.  
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
- ☒ See Section IV of this minute entry (page 5) for additional details and/or rulings.
- ☐ Contempt/Evidentiary/Motion/Show-Cause Hearing held.
- ☐ Hearing held regarding \_\_\_\_\_.
- ☐ \_\_\_\_\_ moved for:
- ☐ Judgment as a Matter of Law (Rule 50(a))
- ☐ Judgment Notwithstanding the Verdict (Rule 50(b))
- ☐ Mistrial/New Trial (Rule 59)
- ☐ \_\_\_\_\_.
- ☐ The parties presented their oral arguments to the Court.
- ☐ The following briefing schedule was set as to the motion(s) above:
- ☐ \_\_\_\_\_ shall serve the motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the opposition to the motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the cross-motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the reply and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the opposition to the cross motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the reply to the cross motion and all supporting papers by: \_\_\_\_\_.
- ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before \_\_\_\_\_.
- ☐ The Court will enter a separate order outlining the post-trial submission schedule.
- ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on \_\_\_\_\_ (same date as the final reply date).
- ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.  
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
- ☐ Witness(es) were called for the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
- ☐ Exhibits were entered into evidence.
- ☐ The Court made the following ruling(s): ☐ Motion granted; ☐ Motion denied; ☐ Motion granted, in part, and denied, in part.
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
- ☐ See Section IV of this minute entry (page 5) for additional details and/or rulings.

- ☐ Fairness Hearing/Settlement Conference held.
- ☐ The parties outlined the details of the settlement agreement.
- ☐ No party(ies) appeared opposing the settlement.
- ☐ Objections to the proposed settlement were heard.
- ☐ The Court made the following ruling(s):
- ☐ Motion granted as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
- ☐ Motion denied as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
- ☐ Motion granted, in part, and denied, in part, as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
- ☐ Motion found moot as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
- ☐ Decision reserved as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
- ☐ The following briefing schedule was set as to \_\_\_\_\_:
- ☐ \_\_\_\_\_ shall serve the motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the opposition to the motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the cross-motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the reply and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the opposition to the cross motion and all supporting papers by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ shall serve the reply to the cross motion and all supporting papers by: \_\_\_\_\_.
- ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before \_\_\_\_\_.
- ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on \_\_\_\_\_ (same date as the final reply date).
- ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.  
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order.
- ☐ See Section IV of this minute entry (page 5) for additional details and/or rulings.
- ☐ Bench Trial held/continued.
- ☐ Opening statements were heard from the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
- ☐ Opening statements waived by the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
- ☐ Witness(es) were called for the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
- ☐ Exhibits were entered into evidence.
- ☐ \_\_\_\_\_ rests.
- ☐ \_\_\_\_\_ rests.
- ☐ \_\_\_\_\_ rests.
- ☐ Summations were heard from the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
- ☐ Summations waived by the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
- ☐ The Court set the following post-trial submission schedule:
- ☐ \_\_\_\_\_ Findings of Fact and Conclusions of Law are due by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ Findings of Fact and Conclusions of Law are due by: \_\_\_\_\_.
- ☐ \_\_\_\_\_ Findings of Fact and Conclusions of Law are due by: \_\_\_\_\_.
- ☐ \_\_\_\_\_: \_\_\_\_\_.
- ☐ \_\_\_\_\_: \_\_\_\_\_.
- ☐ \_\_\_\_\_: \_\_\_\_\_.
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
- ☐ See Section IV of this minute entry (page 5) for additional details and/or rulings.

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- ☐ Jury Selection (*Voir Dire*) held/continued.
- ☐ The prospective jurors were sworn and given preliminary instructions by the Court.
  - ☐ The prospective jurors were asked questions touching upon their qualifications to serve as jurors.
  - ☐ \_\_\_\_\_ moved for a Batson Challenge as to Juror Number \_\_\_\_\_.
    - ☐ The parties presented their oral arguments to the Court.
    - ☐ The motion was ☐ granted and the juror was excused; ☐ denied and the juror remains unchallenged.
  - ☐ A jury of \_\_\_\_\_ were selected and are satisfactory to all parties.
  - ☐ The selected jurors were sworn as trial jurors.
  - ☐ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Jury Trial held/continued.
- ☐ The selected jurors were sworn as trial jurors.
  - ☐ The jurors were given preliminary instructions by the Court.
  - ☐ Opening statements were heard from the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
  - ☐ Opening statements waived by the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
  - ☐ Witness(es) were called for the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
  - ☐ Exhibits were entered into evidence.
  - ☐ \_\_\_\_\_ rests.
  - ☐ \_\_\_\_\_ rests.
  - ☐ \_\_\_\_\_ rests.
  - ☐ The Charge Conference was held between the Court and the parties (absent the presence of the jury).
  - ☐ Summations were heard from the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
  - ☐ Summations waived by the: ☐ \_\_\_\_\_; ☐ \_\_\_\_\_; ☐ \_\_\_\_\_.
  - ☐ The Court charged the jury.
  - ☐ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Jury Deliberations held.
- ☐ Jury Notes were received and marked as Court Exhibits.
  - ☐ The Court instructed the jury to continue their deliberations pursuant to Allen v. United States (*Allen Charge*).
  - ☐ The jury rendered their verdict.
  - ☐ The jurors were polled as to their verdict.
  - ☐ The Verdict Sheet was received and marked as a Court Exhibit.
  - ☐ The jurors were excused with the thanks of the Court.
  - ☐ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.

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**IV. OTHER RULINGS MADE DURING THE PROCEEDINGS:**

- ☐ The record of this proceeding was deemed sealed. Transcripts of this proceeding can be made available to the Court and the parties listed on the case **ONLY**. Any other non-party who wishes to get a copy of the transcripts must file a written request to the Court for consideration.
- ☒ - The parties advise the Court that they are willing to pursue settlement of this action through Mediation. Plaintiff's counsel will serve a written settlement demand to defense counsel by 2/23/2023.
- The parties were further advised that if settlement is not reached, jury selection is tentatively set for 3/20/2023.

**V. FURTHER PROCEEDINGS SET:**

- ☐ Bench Trial: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☐ Contempt Hearing: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☐ Evidentiary Hearing: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☐ Fairness Hearing: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☐ Jury Selection: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☐ Jury Trial: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☐ Motion Hearing: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☐ Preliminary Injunction Hearing: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☐ Pre-Motion Conference: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☐ Pre-Trial Conference: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☐ Settlement Conference: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☐ Show Cause Hearing: \_\_\_\_\_ at \_\_\_\_\_ before Judge \_\_\_\_\_ (\_\_\_\_\_).
- ☒ Status Conference: 3/2/2023 at 9:00 AM before Judge Joanna Seybert (By telephone).

☒ Further instructions regarding the proceedings set:

- ☒ The Court ordered the proceeding(s) to be held via the Court's teleconferencing system. Parties are directed to dial the following telephone number at the designated time: **877-336-1839, access code 7231185.**

☐

- ☐ No further proceedings have been set at this time. (**Note:** Further proceedings may have been set previously. Refer to the docket sheet.)